

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

GUSTAVIA HOME LLC,

Plaintiff,

v.

MEMORANDUM & ORDER
16-CV-2224 (MKB) (RLM)

GLENN BERNARDEZ, DEPARTMENT OF
HOUSING PRESERVATION AND URBAN
DEVELOPMENT and JOHN DOE 1-10,

Defendants.

MARGO K. BRODIE, United States District Judge:

Plaintiff Gustavia Homes LLC commenced the above-captioned action on April 27, 2016, in the United States District Court for the Southern District of New York against Defendants Glenn Bernardez, Department of Housing Preservation and Urban Development and John Doe 1-10, seeking to foreclose on a mortgage encumbering 35 Mitchell Lane in Staten Island, New York (the “Property”). (Compl., Docket Entry No. 1.) Because the Property is located within the jurisdiction of the Eastern District of New York, the Southern District transferred the case to the Eastern District of New York. (Order dated May 3, 2016, Docket Entry No. 10.) Plaintiff subsequently filed an amended complaint. (Am. Compl., Docket Entry No. 18.) Plaintiff seeks a judgment of foreclosure and sale and damages in the amounts of \$64,445.51 in outstanding principal, \$61,738.35 in accrued interest, pre-judgment interest calculated at a rate of \$23.39 per day from May 22, 2017, and costs in the amount of \$1882. (Am. Compl. ¶¶ 28–34; Aff. of Jared Dotoli ¶ 5, Docket Entry No. 25-4; Aff. of Stephanie Childress ¶ 10, Docket Entry No. 33-2.)

Although served with the summons and Complaint, Defendants failed to appear in this action. (Summons, Docket Entry Nos. 20, 22.) Plaintiff sought and obtained an entry of default

against Defendants, (Clerk’s Entry of Default dated Aug. 8, 2016, Docket Entry No. 24), and subsequently moved for a default judgment, (Pl. Mot. for Default J., Docket Entry No. 25). On April 3, 2017, the Court referred Plaintiff’s motion for a default judgment to Chief Magistrate Judge Roanne L. Mann for a report and recommendation. (Order dated Apr. 3, 2016.) By report and recommendation dated July 19, 2017 (the “R&R”), Judge Mann recommended that the Court grant Plaintiff’s motion, order a judgment of foreclosure and sale, appoint Marguerite A. Fiore, Esq. as referee, award Plaintiff damages in the amounts of \$64,445.51 in outstanding principal, \$61,738.25 in accrued interest, and pre-judgment interest calculated at a rate of \$23.39 per day from May 22, 2017, deny costs, and dismiss the John Doe Defendants. (R&R 10–12.) No party has objected to the R&R.

A district court reviewing a magistrate judge’s recommended ruling “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). When a party submits a timely objection to a report and recommendation, the district court reviews *de novo* the parts of the report and recommendation to which the party objected. *Id.*; *see also United States v. Romano*, 794 F.3d 317, 340 (2d Cir. 2015). The district court may adopt those portions of the recommended ruling to which no timely objections have been made, provided no clear error is apparent from the face of the record. *John Hancock Life Ins. Co. v. Neuman*, No. 15-CV-1358, 2015 WL 7459920, at *1 (E.D.N.Y. Nov. 24, 2015). The clear error standard also applies when a party makes only conclusory or general objections, or simply reiterates its original arguments. *Chime v. Peak Sec. Plus, Inc.*, 137 F. Supp. 3d 183, 187 (E.D.N.Y. 2015) (“General or conclusory objections, or objections which merely recite the same arguments presented to the magistrate judge, are reviewed for clear error.”)

(citation omitted)); *see also DePrima v. N.Y.C. Dep't of Educ.*, No. 12-CV-3626, 2014 WL 1155282, at *3 (E.D.N.Y. Mar. 20, 2014) (collecting cases).

The Court has reviewed the unopposed R&R and, finding no clear error, the Court adopts the R&R in its entirety pursuant to 28 U.S.C. § 636(b)(1). Accordingly, the Court grants Plaintiff's motion for default judgment, orders the foreclosure and sale of the Property and appoints Marguerite A. Fiore, Esq. as referee. The sale shall be held on the front steps of the Richmond County Courthouse located at 26 Central Avenue in Staten Island, New York. The Court directs the Clerk of Court to award Plaintiff damages in the amounts of \$64,445.51 in outstanding principal, \$61,738.35 in accrued interest, and pre-judgment interest calculated at a rate of \$23.39 per day from May 22, 2017 until the entry of judgment. The Court denies Plaintiff's request for costs. The Court dismisses the John Doe Defendants.

SO ORDERED:

s/ MKB
MARGO K. BRODIE
United States District Judge

Dated: August 30, 2017
Brooklyn, New York